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v. *Warren Bridge*, 11 Pet. 420, 544, 547, 548; *Turnpike Co. v. Illinois*, 96 U. S. 63, 68; *Oregon Railway Co. v. Oregonian Ry. Co.*, 130 U. S. 1, 26; *Coosaw Mining Co. v. South Carolina*, 144 U. S. 550, 562, citing cases. But the statute of the state provided that penal statutes are not to be strictly construed but "according to the fair import of their terms." Moreover the "construction of the statute is authoritative to the extent of the precise question decided and no farther." *L. & N. R. Co. v. Gaines*, (C. C.) 3 Fed. 266; *State v. Knowles*, 90 Md. 654, 45 Atl. 878, 49 L. R. A. 695; *Southern Ry. Co. v. Simpson*, 131 Fed. 705, 709, 65 C. C. A. 563; *Cohens v. Virginia*, 6 Wheat. 264, 5 L. Ed. 257; *L. & N. R. R. Co. v. County*, 1 Sneed, 639, 696, 62 Am. Dec. 424.

COVENANTS—BREACH OF THAT AGAINST INCUMBRANCES.—The defendant conveyed to the plaintiff land, bounded upon a certain street, but in such terms as to preclude the passage of the fee to any part of the street. The deed of conveyance contained several covenants for title, including a covenant against incumbrances. Six months prior to the conveyance to the plaintiff the defendant had, for a valuable consideration, executed and delivered a contract to the B. & A. Railway Co., by a provision of which the railway company was released from all damages to said lots, by reason of the laying of tracks and the operation of a railroad in the street. In an action by the plaintiff to recover damages for breach of covenant, *Held*, this release is an incumbrance. *Tuskegee Land & Security Co. v. Birmingham Realty Co.* (1909), — Ala. —, 49 South. 378.

The facts in this case are rather unusual and although the court cites no case exactly in point it relies, among others, upon *Taylor v. Evans*, 177 Pa. 286, 35 Atl. 635, 69 L. R. A. 790, in which the facts were somewhat similar. In that case the right of a city to open a street without paying damages for buildings erected in the bed thereof, after the street was laid and platted, was held to be an incumbrance. The release given to the railway company would seem to come within the definition of an incumbrance as laid down in *Prescott v. Trueman*, 4 Mass. 627, 3 Am. Dec. 246, and adopted by the court in deciding the principal case, where an incumbrance is defined as "any right or interest in the land granted to the diminution of the value of the land, but consistent with the passing of the fee by conveyance," since the operation of a steam road in front of the property might clearly detract from the value of the land and, by the release, the plaintiff would be precluded from recovering damages from the railroad company.

ELECTIONS—BALLOTS—INDICATION OF CHOICE BY VOTER.—Plaintiff and defendant were candidates on the Democratic ticket for the office of constable. Two ballots cast at the election were marked in the party device at the head of the ticket and also opposite the name of each and every candidate on the ticket excepting the name of plaintiff. Sec. 4, art. 1, c. 17, page 234, Session Laws 1905 provides that if a voter shall desire to vote for all the candidates of one political party * * * he may stamp a cross in the circle under the device and in the column above the candidates of the party * * * for whom he desires to vote, and such ballot when so marked shall be counted as a